

President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) of this section has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) Waiver

(1) Criterion for waiver

The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) Notification of and report to Congress

If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) “Foreign person” defined

For the purposes of this section, the term “foreign person” means—

- (1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or
- (2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

(Pub. L. 90–629, ch. 8, §81, as added and amended Pub. L. 102–182, title III, §§305(b), 309(b)(2), Dec. 4, 1991, 105 Stat. 1250, 1258.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a)(1)(C), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

PRIOR PROVISIONS

A prior subchapter VIII, consisting of former section 2798, as added by Pub. L. 102–138, title V, §505(b), Oct. 28, 1991, 105 Stat. 727, was substantially identical to subchapter VIII, as added by section 305(b) of Pub. L. 102–182, prior to repeal by Pub. L. 102–182, title III, §309(a), Dec. 4, 1991, 105 Stat. 1258.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 101–182, §309(b)(2), substituted “October 28, 1991” for reference to the “date of the enactment of this section” which was enacted Dec. 4, 1991.

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Ex. Ord. No. 12851, §1(a), June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title.

SUBCHAPTER IX—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS

§ 2799. Purpose

The purpose of this subchapter is to authorize the President to support, consistent with the CFE Treaty, a NATO equipment transfer program that will—

- (1) enhance NATO’s forces,
- (2) increase NATO standardization and interoperability, and
- (3) better distribute defense burdens within the NATO alliance.

(Pub. L. 90–629, ch. 9, §91, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1691.)

§ 2799a. CFE Treaty obligations

The authorities provided in this subchapter shall be exercised consistent with the obligations incurred by the United States in connection with the CFE Treaty.

(Pub. L. 90–629, ch. 9, §92, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1691.)

§ 2799b. Authorities

(a) General authority

The President may transfer to any NATO/CFE country, in accordance with NATO plans, defense articles—

- (1) that are battle tanks, armoured combat vehicles, or artillery included within the CFE Treaty’s definition of “conventional armaments and equipment limited by the Treaty”;
- (2) that were, as of the date of signature of the CFE Treaty, in the stocks of the Department of Defense and located in the CFE Treaty’s area of application; and
- (3) that the President determines are not needed by United States military forces within the CFE Treaty’s area of application.

(b) Acceptance of NATO assistance in eliminating direct costs of transfers

In order to eliminate direct costs of facilitating transfers of defense articles under subsection (a) of this section, the United States may utilize services provided by NATO or any NATO/CFE country, including inspection, repair, or transportation services with respect to defense articles so transferred.

(c) Acceptance of NATO assistance in meeting certain United States obligations

In order to facilitate United States compliance with the CFE Treaty-mandated obligations for destruction of conventional armaments and equipment limited by the CFE Treaty, the United States may utilize services or funds provided by NATO or any NATO/CFE country.

(d) Authority to transfer on grant basis

Defense articles may be transferred under subsection (a) of this section without cost to the recipient country.

(e) Third country transfers restrictions

For purposes of sections 2753(a)(2), 2753(a)(3), 2753(c), and 2753(d) of this title, defense articles transferred under subsection (a) of this section